IN THE COURT OF JUDICATURE AT BOMBAY

ORIGINAL SIDE JURISDICTION

NOTICE OF MOTION NO. 718 OF 2006

IN

WRIT PETITION NO. 330 OF 2006

Anand Nursing Home ....Petitioners
vs.
Mahadev Gaikwad ...Respondents

Tejas Deshpande for the petitioners in support of the N/M.
Rajesh Gehani for the respondents.

CORAM: S.C. DHARMADHIKARI, J.

16th January, 2007.

P.C :-

1. Heard Mr.Deshpande appearing in support of this Notice of Motion and Mr.Gehani for the contesting respondent.

2. Having perused the Notice of Motion and the affidavit-in-support, so also the Affidavit-in-reply coupled with the compilation of documents, I am of

the view that the Notice of Motion is totally misconceived. The order passed by this court on 27.2.2006 is absolutely clear. The petitioner has stated before this court, that he is ready and willing to reinstate the respondent without prejudice to their legal rights and that is how the stay of the order impugned in the petition is granted only to the extent it directs payment of backwages. If the petitioner's complaint is that the respondent is not reporting for work, which is not an admitted position and denied by the respondent on affidavit, the Notice of Motion is not the appropriate remedy for the petitioners. That apart, their submission itself proceeds on the basis that reinstatement is without prejudice to their legal rights. Therefore, the request as made in the Notice of Motion cannot be considered. It is open for the petitioners to take recourse to such measures as are permissible in law, if their grievance and complaint still persists. Notice of Motion is dismissed.

sd/-

(S.C.DHARMADHIKARI, J)